

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA ISP ASSOCIATION, INC.,

Complainant,

vs.

PACIFIC BELL TELEPHONE COMPANY
(U-1001-C); SBC ADVANCED SOLUTIONS, INC.
(U-6346-C) and DOES 1-20,

Defendants.

Case 01-07-027

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTION BY PACIFIC BELL/SBC TO COMPEL DISCOVERY**

On March 14, 2002, Pacific Bell Telephone Company (Pacific Bell) and SBC Advanced Solutions, Inc, (SBC) filed a motion to compel production of information and documents from California ISP Association, Inc. (CISPA). On March 27, 2002, CISPA filed opposition.

This motion is similar to a motion brought by Pacific Bell and SBC in August 2001. On September 7, 2001, the assigned Administrative Law Judge (ALJ) issued a telephonic ruling granting the motion and instructing CISPA to produce any documents from its members if those members would present testimony or appear as witnesses in the proceeding.

CISPA claims it has produced all responsive, non-privileged documents in its possession, custody, or control, including documents received from members

and witnesses. CISPA has not complied with other discovery requests relying on Re Alternative Regulatory Frameworks for Local Exchange Carriers, 55 CPUC 672, WL 4964409 (Cal CPUC), which held that "the Commission cannot compel an association to require its individual members to answer data requests." Since CISPA is an association, it does not believe its individual members are subject to the discovery obligations of parties. CISPA is also still continuing its discovery. In addition, CISPA is not representing individual members at this time.

In the motion, Pacific Bell and SBC argue that they are not asking CISPA to have its members to answer data requests, but rather, they are only requesting that CISPA disclose information from its members it intends to rely on at the hearing.

Having considered the motion and its supporting papers, and the opposition, and having found good cause:

IT IS RULED that the motion by Pacific Bell and SBC is granted as follows: CISPA is to produce to Pacific Bell and SBC, within 10 days of this ruling, all information responsive to Pacific Bell and SBC's December 6, 2001, Data Request that CISPA intends to rely upon in this proceeding from its members. In addition CISPA is to produce information known to the witnesses that CISPA identified in its discovery response. CISPA must designate witnesses either through the discovery process, or by a date established in the proceeding, and must make such witnesses available for discovery, in whatever form is deemed appropriate by Pacific Bell and SBC. If CISPA fails to comply with its

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discovery obligations, Pacific Bell and SBC may move to limit CISPA's testimony to what it has produced.

Dated April 15, 2002, at San Francisco, California.

/s/ CAROL A. BROWN

Carol A. Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion by Pacific Bell/SBC to Compel Discovery on all parties of record in this proceeding or their attorneys of record.

Dated April 15, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.